

IN THE DISTRICT COURT OF CLAY COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., MICHAEL)
J. LINDER, Director, NEBRASKA)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY,)

Plaintiff,)

v.)

Van Kirk Sand and Gravel, Inc.,)

Defendants.)

Case No. CE 12 100

COMPLAINT

FILED
IN THE DISTRICT COURT OF
CLAY COUNTY, NEBRASKA

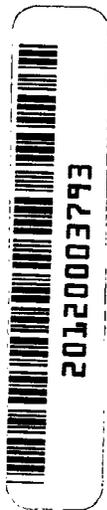
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JONI SKALKKA
CLERK OF THE DISTRICT COURT

The State of Nebraska, on behalf of the Nebraska Department of Environmental Quality (NDEQ), alleges the following:

1. The Plaintiff is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. §81-1504(1) (Reissue 2008) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. §81-1501 (Reissue 2008 and Supp. 2009) *et seq.*

2. The Defendant, Van Kirk Sand and Gravel, Inc., of Sutton, Nebraska, was hired by Earl and Virginia Hultman to remove swine lagoons located on Hultman's farm property legally described as SW ¼, Section 8, Township 07N, Range 05W, Clay County, Nebraska.

3. Pursuant to Nebraska Revised Statute §81-1506(1) (a) it is unlawful for any person to cause pollution of any waters or land of the state or to place or cause any wastes to be placed in a location where they are likely to cause pollution of any waters of the state.



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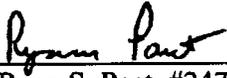
4. On or about March 5, 2012, the Defendant allowed or caused livestock waste to flow out of swine lagoons and into School Creek. This constitutes a violation of §81-1506 (1) (a).

5. Pursuant to Neb. Rev. Stat. §81-1508.02 (2), a civil penalty is provided in the amount of not more than \$10,000 (ten thousand dollars) for each day of violation. In case of a continuing violation, each day shall constitute a separate offense.

WHEREFORE, the plaintiff prays that judgment be entered in favor of the Plaintiff and against the Defendant in the form of civil penalties as provided in Neb. Rev. Stat. §81-1508.02 (2) and further that all costs of this action be taxed to the Defendant.

STATE OF NEBRASKA, ex rel.,
MICHAEL J. LINDER, Director
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY, Plaintiff

By: Jon C. Bruning, #20351
Attorney General

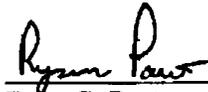
By: 

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Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon the Defendant by regular United States mail, first class postage prepaid on this 12th day of October, 2012 addressed to the Defendant's attorney of record as follows:

Jeffery T. Peetz
Woods & Aitken LLP
301 South 13th Street, Suite 500
Lincoln, NE 68508



Ryan S. Post
Assistant Attorney General